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IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

UNITED STATES NUCLEAR REGULATORY COMMISSION
and
THE UNITED STATES OF AMERICA,
Petitioners,

v.

STEVEN SHOLLY, *et al.*,
Respondents.

METROPOLITAN EDISON CO., *et al.*,
Petitioners,

v.

PEOPLE AGAINST NUCLEAR ENERGY, *et al.*,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF *AMICUS CURIAE* OF EDISON ELECTRIC INSTITUTE IN SUPPORT OF PETITIONERS

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QUESTION PRESENTED

Whether the court of appeals erred in holding that the Nuclear Regulatory Commission is compelled by Section 189(a) of the Atomic Energy Act, as amended, 42 U.S.C. § 2239(a), to conduct a prior hearing on a nuclear power plant license amendment upon request by an interested party, even though the amendment is found by the NRC to raise "no significant hazards consideration."

TABLE OF CONTENTS

	PAGE
QUESTION PRESENTED	i
TABLE OF AUTHORITIES	iii
INTEREST OF *AMICUS CURIAE*	2
REASONS FOR GRANTING THE PETITIONS	
I. IN PRACTICAL TERMS THE DECISION BELOW WILL HAVE A PERVASIVE IMPACT ON ELECTRIC UTILITIES, THEIR CUSTOMERS AND THE NATIONAL INTEREST EXTENDING FAR BEYOND THE PRIVATE PARTIES IN THE CASE	6
II. THE COURT OF APPEALS ERRED BY ADOPTING AN INTERPRETATION OF SECTION 189(a) WHICH IS ILLOGICAL AND INCONSISTENT WITH THE ACT'S LEGISLATIVE HISTORY AND TWENTY YEARS OF CONSISTENT ADMINISTRATIVE PRACTICE	10
A. The Court Of Appeals Decision Results In An Illogical Interpretation Of Section 189(a)	10
B. The 1962 Amendments To Section 189(a) Ratified Earlier Administrative Action Authorizing The Commission To Dispense With A Public Hearing Prior To Approval Of A License Amendment Which The Commission Determined Constituted No Significant Hazards Consideration	12
C. The Commission Has Consistently Interpreted The 1962 Amendments To Section 189(a) As Authorizing It To Approve License Amendments Which Involve No Significant Hazards Consideration Without Conducting A Prior Hearing	13
CONCLUSION	15

TABLE OF AUTHORITIES

Cases

	PAGE
Brooks v. *Atomic Energy Commission*, 476 F.2d 924 (D.C. Cir. 1973)	12
General Electric Company (Vallecitos Boiling Water Reactor) 1 A.E.C. 541 (1960)	12,13,14
Mullane v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)	11
Power Reactor Development Co. v. *Electricians*, 367 U.S. 396 (1961)	14
Sholly v. *Nuclear Regulatory Commission*, ___ F.2d ___ (D.C. Cir. 1980)	passim
Sholly v. *Nuclear Regulatory Commission*, Statement on Denial of Hearing En Banc (D.C. Cir. March 4, 1981)	5
Siegel v. *Atomic Energy Commission*, 400 F.2d 778 (D.C. Cir. 1968)	14
Udall v. *Tallman*, 380 U.S. 1 (1965)	14
Union of Concerned Scientists v. *Atomic Energy Commission*, 499 F.2d 1069 (D.C. Cir. 1974)	13
United States v. *Katz*, 271 U.S. 354 (1925)	10
Vermont Yankee Nuclear Power Corporation v. *Natural Resources Defense Council*, 435 U.S. 519 (1978)	4,5,7

Statutes

Atomic Energy Act, as amended, 42 U.S.C. §§2011 *et seq.* (1980)	6
§29, 42 U.S.C. §2039	7
§182(b), 42 U.S.C. §2232(b)	7
§185, 42 U.S.C. §2235	6
§189(a), 42 U.S.C. §2239(a)	passim
National Environmental Policy Act, 42 U.S.C. §§4321 *et seq.* (1980)	6

Statutes (continued)

	PAGE
Energy Reorganization Act of 1974, 42 U.S.C. § 5841 (1980)	6
Atomic Energy Act Amendment, Pub. L. 87-615, 76 Stat. 409 (1962)	12

Regulations

10 C.F.R. § 50.58	7,13
10 C.F.R. § 50.59	13
10 C.F.R. § 50.59(a)(1)(c)	7
10 C.F.R. § 50.59(e)(2)	12
10 C.F.R. § § 51.50-51.56	6

Federal Register

27 Fed. Reg. 5491 (1962)	12
27 Fed. Reg. 12184 (1962)	13
45 Fed. Reg. 48008 (1980)	8
45 Fed. Reg. 74598 (1980)	8
46 Fed. Reg. 10578 (1981)	8
46 Fed. Reg. 19121 (1981)	8
46 Fed. Reg. 19123 (1981)	8

Miscellaneous

Joint Comm. on Atomic Energy, 87th Cong., 1st Sess., *Improving the AEC Regulatory Process*, Vol. I (Comm. Print 1961)	12,13
S. Rep. No. 1677, 87th Cong., 2d Sess. (1962)	6,10,13
H.R. Rep. No. 1966, 87th Cong., 2d Sess. (1962)	13
U.S. Department of Energy, Energy Information Administration, *Monthly Energy Review*, (March 1981)	3
U.S. Nuclear Regulatory Commission, *Owners of Nuclear Power Plants, NUREG-0327*, Rev. 2 (December 1979)	3

Miscellaneous (continued)

	PAGE
U.S. Nuclear Regulatory Commission, *Operating Units Status Report, NUREG-0020*, Vol. 4, No. 1 (January 1980)	3
Edison Electric Institute, *1980 Annual Electric Power Survey*	9
Edison Electric Institute, *Catalogue of Investor-Owned Utility Companies Operating in the United States*, 20th Ed. (1981)	3

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BRIEF *AMICUS CURIAE* OF EDISON ELECTRIC INSTITUTE IN SUPPORT OF PETITIONERS

Edison Electric Institute ("EEI") hereby submits its brief *amicus curiae* in support of petitions for a writ of certiorari filed by the United States Nuclear Regulatory Commission ("NRC") and the United States of America on March 30, 1981 ("Government Petition") and by the Metropolitan Edison Company,

Jersey Central Power & Light Company and Pennsylvania Electric Company on April 2, 1981 ("Utility Petition") in this case.[1] Petitioners seek the United States Supreme Court's ("the Court") review of a holding by the United States Court of Appeals for the District of Columbia Circuit ("Court of Appeals") that the NRC must hold a prior hearing on any nuclear power plant operating license amendment upon the request of an interested party even though the amendment has been determined by NRC to involve no significant hazards consideration. *Sholly* v. *Nuclear Regulatory Commission*, ___F.2d___(D.C. Cir. 1980), Utility Pet., App. C.

INTEREST OF *AMICUS CURIAE*

EEI is the national association of investor-owned electric utility companies in the United States. Its members serve 99.1 percent of all customers of the investor-owned segment of the utility industry and 77.1 percent of the nation's electricity users. This case concerns matters of considerable importance to customers of its member companies and its members themselves who now or may in the future hold construction permits[2] or operating licenses for nuclear power plants.

The decision by the Court of Appeals has an impact that extends far beyond this particular case. This decision imposes substantial new administrative burdens upon the NRC. In effect, it requires the NRC to hold hearings prior to acting on amendments to construction permits or operating licenses, even when the NRC determines the amendments present no significant hazards consideration. By seeming to equate a request for a hearing with a mere expression of interest in the construction or operation of a nuclear power plant by a member of the public,[3] the decision will cause NRC considerable uncertainty when deciding whether a prior hearing must be held.

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[1] EEI has obtained the written consent of all parties to this case. The written consents have been filed with the Clerk of this Court.

[2] Although the *Sholly* decision arose in the factual context of an amendment to an operating license, the applicable statutory language on which the holding is based applies to amendments to construction permits as well as amendments to operating licenses. 42 U.S.C. §2239(a).

[3] Utility Pet., App. C at 39a, n.25.

These administrative burdens are likely to cause substantial delays in new nuclear plant construction and prolonged shutdowns of operations or periods of reduced power production at operating plants. This will in turn require the purchase of power to provide the energy not supplied by the nuclear plants. This will inevitably result in increased expense to the utilities and their customers due to the costs of purchasing replacement power and in increased use of imported oil in many cases to generate the replacement power. Neither of these adverse results is justified by public health and safety considerations.

In 1980 nuclear power plants produced 11 percent of the domestic electricity generated from all fuel sources by generating 251,122 million net kilowatt hours of electricity.[4] In 1979, the latest year for which figures are available, EEI member companies produced 83.7 percent, or 213,132 million net kilowatt hours, of the total nuclear power generated.[5]

EEI's members include 87 companies having an interest in nuclear power plants for which construction permits or operating licenses have been issued by the NRC or for which applications for construction permits covering 11 units are now under review at the NRC.[6] As of December 31, 1979, 40,917,550 customers in 34 states were within the service areas of these EEI member utilities having operating nuclear plants and received direct benefits from the electricity they produced.[7] Customers in other states received benefits from these plants as well under regional interconnection agreements which, through regional transmission line grid systems, provide for the sharing of electricity among participating utilities.

Approximately 30,000 barrels of oil per day are needed to generate the electricity produced by a 1000 MWe nuclear plant. If, as the result of the *Sholly* decision, a nuclear power plant were shut down due to a prior hearing on a no significant hazards consideration operating license amendment, replace-

[4] U.S. Department of Energy, Energy Information Administration, *Monthly Energy Review* 70 (March 1981).

[5] U.S. Nuclear Regulatory Commission, *Operating Units Status Report, NUREG-0020*, Vol. 4, No. 1 (January 1980).

[6] U.S. Nuclear Regulatory Commission, *Owners of Nuclear Power Plants, NUREG-0327*, Rev. 2 (December 1979).

[7] Edison Electric Institute, *Catalogue of Investor-Owned Electric Utility Companies Operating in the United States*, 20th Ed. (1981).

ment power would be generated in some parts of the country by burning imported oil. The amount of imported oil needed would depend on the size of the nuclear power plant and the length of time replacement power was required.

Because the holding below will increase the time and expense involved in obtaining amendments to construction permits or operating licenses, all 87 of these EEI members are impacted by and have an identifiable interest in review of this decision. If the decision below is not reviewed and reversed, customers of these companies will bear the additional expense incurred through rate increases to pay for replacement power. The public interest in reducing the nation's dependence on imported oil is at stake in this case as well because of the imported oil that would be used to generate the replacement power in some parts of the country.

As a national association, EEI is in a position to present policy considerations, facts and legal arguments to this Court which demonstrate the national significance of the holding below. The Court's consideration of whether the holding below decides a question of federal law of sufficient importance to merit this Court's attention would benefit from this information. The balance of this brief *amicus curiae* demonstrates, from a national perspective, the impacts of the holding below and seeks to assist the Court to reach a determination that the public interest lies in granting the petitions for a writ of certiorari.

REASONS FOR GRANTING THE PETITIONS

In addition to the practical considerations set forth in this brief, substantial legal questions merit this Court's summary reversal or reversal following review on the merits of the holding below. The Court of Appeals failed to heed principles unanimously enunciated by this Court concerning judicial review of administrative procedures formulated by the agency in which Congress has conferred responsibility for substantive judgments. *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council*, 435 U.S. 519 (1978). In doing so the Court of Appeals admitted that it had achieved a "paradoxical result" by holding that Congress authorized the Commission to dispense with prior notice of a license amendment, but required the Commission to hold a hearing upon request

before approving such an amendment. Utility Pet., App. C at 35a, n.20. This result would have been avoided if the Court of Appeals had deferred to twenty years of consistent NRC interpretation of its authority. The Court of Appeal's holding would then have reflected a sensible construction of the statute and its legislative history.

Four judges of the Court of Appeals for the District of Columbia Circuit who dissented from the denial of a suggestion for rehearing *en banc* of the panel decision in *Sholly* correctly concluded that "[u]nder the rubric of statutory interpretation, the panel has made a policy decision of major consequence.... We believe that the panel's inflexible blanket rule violates the Supreme Court's unanimous mandate in *Vermont Yankee* rejecting judicial imposition of administrative procedures upon an agency in excess of the statutory minima prescribed by Congress." *Sholly* v. *Nuclear Regulatory Commission*, Statement on Denial of Rehearing En Banc (D.C. Cir. March 4, 1981), Utility Pet., App. A at 3a. In *Vermont Yankee*, *supra*, 435 U.S. at 549, n.21, this Court recognized that a court should properly compel administrative agencies to comply with procedures mandated by relevant statutes, but advised that it should "not stray beyond the judicial province to explore the procedural format or to impose upon the agency its own notion of which procedures are 'best' or most likely to further some vague, undefined public good." *Id.* at 549. Rather, this Court stated that "[e]ven apart from the Administrative Procedure Act this Court has for more than four decades emphasized that the formulation of procedures was basically to be left within the discretion of the agencies to which Congress had confided the responsibility for substantive judgments." *Id.* at 524.

We will show below that the panel decision erroneously applied the language of Section 189(a), misconstrued its legislative history, and dismissed twenty years of consistent agency interpretation in order to impose additional procedural requirements. This decision must be reviewed to rectify those errors and to restore the procedural format specified by Congress and adopted by the Commission.

If this Court declines to review the decision below, the NRC will be compelled to adopt additional administrative procedures governing review of applications for construction permits and license amendments in a manner that will prolong the

administrative process with essentially no incremental benefit to the public health and safety. Staff experts could be diverted from other regulatory actions acknowledged by all to have significant health and safety considerations. The entire nuclear power industry, its customers and the public generally will be impacted by such procedures. Before the NRC is compelled to do so, this Court should review the decision below to determine whether the Court of Appeals erred.

I. IN PRACTICAL TERMS THE DECISION BELOW WILL HAVE A PERVASIVE IMPACT ON ELECTRIC UTILITIES, THEIR CUSTOMERS AND THE NATIONAL INTEREST EXTENDING FAR BEYOND THE PRIVATE PARTIES IN THE CASE.

In order to appreciate fully the practical effect of the decision below, the legal question being addressed must be understood in the context of the overall regulatory structure Congress created in the Atomic Energy Act ("Act") to ensure the safe construction and operation of nuclear power plants. 42 U.S.C. §§2011 *et seq.* Congress has delegated this responsibility to the Nuclear Regulatory Commission. 42 U.S.C. §5841 (1980).

An electric utility cannot construct a nuclear power plant until the NRC has approved a construction permit. 42 U.S.C. §2235. During consideration of an application for a construction permit crucial issues concerning siting and public health and safety are addressed. Congress has recognized that the construction permit stage is "the critical point in reactor licensing . . . where the suitability of the site is to be judged." S. Rep. No. 1677, 87th Cong. 2nd Sess. 8 (1962). NRC is required to hold a public hearing on the application after thirty days notice and publication in the *Federal Register*. 42 U.S.C. §2239(a) (second sentence).

NRC is also required to prepare an environmental analysis in accordance with the National Environmental Policy Act ("NEPA"). 42 U.S.C. §§4321 *et seq.* The public may participate in the NEPA process through attendance at scoping meetings and the submission of written and often oral comments. 10 C.F.R. §§51.50-51.56.

In addition, the Advisory Committee on Reactor Safeguards ("ACRS") recognized by this Court as "a group of distinguished experts in the field of atomic energy," *Vermont Yankee, supra*, 435 U.S. at 526, independently evaluates all applications for construction permits and operating licenses. 42 U.S.C. §§2039, 2232(b). The ACRS report becomes a part of the public record of the utility's application. 10 C.F.R. §50.58.

Subsequent to the completion of construction, NRC must issue an operating license before the plant can commence full power operations. Interested members of the public may request a hearing before an operating license is approved. 42 U.S.C. §2239(a) (third sentence). If such a request is not made, the Commission may issue an operating license following thirty days notice and publication in the *Federal Register* of its intent to do so. *Id.* Thus, by the time an operating license is issued, the NRC will have held at least one hearing and may have held a second hearing addressing public health and safety issues relevant to operating the particular nuclear power plant.

The operating license is a complex document containing detailed terms, conditions and technical specifications which can run to hundreds of pages in a typical license. Utility Pet., App. F at 62a, Boyd Aff. para. 4. Because of their technical detail and scope, operating licenses and technical specifications frequently require modification. NRC regulations provide that any change to an operating license including technical specifications, no matter how small, requires an amendment to the operating license. 10 C.F.R. §50.59(a)(1)(c).

In the past four years NRC has approved more than 1600 operating license amendments which it determined raised no significant hazards consideration. Government Pet. at 15. Pursuant to 10 C.F.R. §50.58, the NRC has approved these 1600 amendments without prior public notice, as it did in approving the license amendment in this case. However, the NRC permits members of the public to request and obtain a hearing after approval of such license amendments. Government Pet. at 16.

In considering whether a license amendment involves no significant hazards consideration the NRC staff analyses a number of factors related to the safe operation of the nuclear

power plant. Utility Pet., App. F at 62a, Boyd Aff. para 5. Review of a few examples of operating license amendments falling into the no significant hazards consideration category provides a clearer picture of the types of amendments the NRC is called upon to address. These include an amendment to revise "the corporate (offsite) organization for support of the Trojan Nuclear Plant by placing all nuclear support activities in a single corporate division" (45 Fed. Reg. 74598, November 10, 1980), an amendment to modify "the Technical Specifications to reflect changes in the corporate structure of the Toledo Edison Company" (45 Fed. Reg. 48008, July 17, 1980), an amendment to revise "the Technical Specifications for this unit [Salem Nuclear Unit No. 1] to reflect changes in the organization that operates and supports the operation of both Unit Nos. 1 and 2 [and] consistent 'Administrative Controls' . . . also made to the Appendix B Technical Specifications" (46 Fed. Reg. 10578, February 3, 1981), and an amendment providing "a one time thirty-day extension for the visual inspection surveillance requirement for inaccessible snubbers"[8] (46 Fed. Reg. 19123, March 27, 1981).

Operating license amendments may also involve equipment changes for nuclear power plants. An example of such an operating license amendment which the staff in the exercise of its expert judgment determined constituted no significant hazards consideration is an amendment modifying "the Technical Specifications to reflect the replacement of power operated inboard containment isolation valve CV-4371-B with a manual stop check valve" (46 Fed. Reg. 19121, March 27, 1981).

Notwithstanding the NRC staff's expertise in such matters, under the holding of the Court of Appeals any one of these no significant hazards consideration amendments — whether involving questions of corporate staff reorganization or equipment replacement in operating plants — would have been the subject of a prior hearing upon the request of any interested party. A reasonable reading of the statute and its legislative history does not compel this result. Furthermore, under a conservative reading of *Sholly*, the Commission will be faced with the uncertainty of deciding whether to schedule a hearing before

[8] A snubber is a type of shock absorber used to protect plant piping from excess vibration.

approving even the most minor license amendments about which a member of the public had expressed an interest that could be considered in some way related to the amendment. To require a prior hearing has the effect of elevating amendments to operating licenses involving a no significant hazards consideration determination to the same procedural stature for hearing purposes as the issuance of the operating license itself or permit and license amendments recognized by all parties to raise significant safety issues. Such a result is unjustifiable under any reasonable and practical reading of Section 189(a).

If prior hearings were scheduled for such routine amendments, agency approval could be delayed for months. By one estimate, the expected delay in processing a no significant hazards consideration operating license amendment would be at least nine months. Utility Pet. at 15. Depending on the nature of the amendment, a lengthy hearing on an amendment determined to involve no significant hazards consideration could force an operating plant to shutdown, prolong the scheduled shutdown of a plant or force it to operate at reduced power for months.

In certain regions of the country nuclear power provides a significant proportion of the electricity generated from all sources. For example, in 1979 nuclear power in three regions of the country, the MidContinent Area Reliability Coordination Agreement[9] ("MARCA"), Northeast Power Coordinating Council[10] ("NPCC") and Mid-America Interpool Network[11] ("MAIN"), generated 26.1 percent, 24.0 percent and 20.8 percent respectively of the electricity produced from all fuel sources.[12]

Customers in these regions receive the benefit of electricity generated from nuclear power either directly as a customer of a utility having an interest in an operating nuclear power plant or indirectly through interconnection agreements. Particularly

[9] MARCA includes all or portions of the States of Wisconsin, Illinois, Michigan, Minnesota, Iowa, North Dakota, South Dakota, Nebraska and Montana.

[10] NPCC includes the States of New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine.

[11] MAIN includes all or portions of the States of Missouri, Illinois, Wisconsin and Michigan.

[12] Edison Electric Institute, *1980 Annual Electric Power Survey* at 19.

in these regions, customers of electric utilities would feel the impact, through rate increases to pay for replacement power, of prolonged shutdowns or low power production resulting from hearings on operating license amendments determined by NRC to involve no significant hazards consideration.

In certain regions of the country, particularly NPCC, prolonged shutdowns would result in generation of replacement power through burning of imported oil. At 30,000 barrels per day of oil needed to generate the electricity produced by a 1000 MWe nuclear plant, the increased dependence on imported oil can become significant in a relatively short period of time.

The interests of these utility customers, the utilities themselves, and the national interest in reducing dependence on imported oil calls for review of the Court of Appeals decision to determine whether, in fact, the practical impact of the holding below is one that was intended by Congress and compelled by the language of Section 189(a).

II. THE COURT OF APPEALS ERRED BY ADOPTING AN INTERPRETATION OF SECTION 189(a) WHICH IS ILLOGICAL AND INCONSISTENT WITH THE ACT'S LEGISLATIVE HISTORY AND TWENTY YEARS OF CONSISTENT ADMINISTRATIVE PRACTICE.

A. The Court Of Appeals Decision Results In An Illogical Interpretation Of Section 189(a).

Statutes are to be construed in a manner which achieves sensible results. *United States* v. *Katz*, 271 U.S. 354, 357 (1925). Congress sensibly structured Section 189(a) to address the different types of regulatory actions involved in nuclear power plant permitting and licensing in relationship to the significance of those actions. Section 189(a) requires mandatory hearings prior to action on a construction permit application (42 U.S.C. § 2239(a) (first and second sentence)) which, as we have shown, Congress recognized as "the critical point in reactor licensing . . . where the suitability of the site is to be judged" (S. Rep. No. 1677, 87th Cong., 2nd Sess. 8 (1962)). Section 189(a) also requires notice and publication of operating license applications and amendments to construction permits and operating licenses, but provides that hearings need be

held prior to approval only if requested by an interested party. 42 U.S.C. § 2239(a) (third sentence). For insignificant regulatory actions, which involve no significant hazards consideration amendments to construction permits and operating licenses, Congress even dispensed with mandatory notice and publication. *Id.* (fourth sentence).

Given the traditional view of the relationship between the notice of a proposed action and a right to a hearing before the action is taken, *see, Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950), the most sensible interpretation of this statutory scheme is that the language of Section 189(a) authorizes NRC to dispense with both the prior hearing and notice requirements for no significant hazards consideration amendments. NRC has explicitly adopted this view. Given the balance to be struck between the practical considerations of administering the Act and the essential need to protect public health and safety, the Commission's interpretation of its authority represents a sensible and effective approach to administration of the Act.

Rather than acknowledging the practical interpretation given this provision by NRC, the Court of Appeals adopted an admittedly "paradoxical" construction of Section 189(a). It held that Congress authorized the Commission to dispense with prior notice of a license amendment, but still required the Commission to hold a hearing upon request before approving such an amendment. Utility Pet., App. C at 35a, n.20. The Court of Appeals further admitted that "as the NRC and the licensee note, it is difficult to imagine how a hearing can be requested when the NRC issues a license amendment without notice." *Id.* Although the Court of Appeals found that the third sentence of Section 189(a) "plainly demonstrates" that Congress deliberately intended to "disentangle" the requirement of notice about a license amendment from the right to request a hearing prior to implementation of such an amendment (Utility Pet., App. C. at 35a), its reasoning in this case is directly inconsistent with the clear language of that sentence and with its earlier analysis of Section 189(a) in *Brooks* v. *Atomic Energy Commission*, 476 F.2d 924 (D.C. Cir. 1973). There it stated: "[c]ertainly, logic compels the conclusion, as

Congress recognized, that one may not timely request a hearing if he lacks notice that the Commission is about to take action." *Id.* at 927. Thus, no reasonable justification exists for the Court of Appeal's rejection of the Commission's practical interpretation of the Act.

B. The 1962 Amendments To Section 189(a) Ratified Earlier Administrative Action Authorizing The Commission To Dispense With A Public Hearing Prior To Approval Of A License Amendment Which The Commission Determined Constituted No Significant Hazards Consideration.

In 1962 the Atomic Energy Commission, the predecessor of the NRC, adopted a final regulation authorizing changes in technical specifications without a prior hearing if the changes involved no significant hazards consideration and the Commission found with reasonable assurance that the health and safety of the public would not be endangered. 27 Fed. Reg. 5491, 5492 (June 9, 1962), codified at 10 C.F.R. § 50.59(e)(2). The preamble to the proposed rule noted that the Commission planned to delegate authority to the staff to determine whether a proposed change involved a significant hazards consideration. 27 Fed. Reg. at 5492. Where it did not, such change was authorized without a prior public hearing. *Id.* The Commission noted that "[t]he revisions for § § 50.36 and 50.59 are based upon the provisions incorporated in License No. DPR-1 pursuant to the Commission's Memorandum and Order dated November 2, 1960 (*in the matter of General Electric, Vallecitos Boiling Water Reactor*, Docket No. 50-18)." *Id.*

On August 29, 1962, Section 189(a) of the Atomic Energy Act of 1954, as originally enacted, was amended. The amendment added the balance of what is currently Section 189(a) following the first sentence. Pub. L. 87-615, 76 Stat. 409 (1962). At that time Congress was aware of the position taken by the Commission in the *Vallecitos* decision. The Congressional Joint Committee on Atomic Energy in a 1961 report had already recommended administrative codification of the *Vallecitos* rule. *See*, Joint Comm. on Atomic Energy, 87th Cong., 1st Sess., *Improving the AEC Regulatory Process*,

Vol. I, 73, n. 4 (Comm. Print 1961). The Joint Committee Report on the 1962 amendments to the Atomic Energy Act expressly adopted the *Vallecitos* approach embodied in 10 C.F.R. § 50.59, stating, "this criteria is presently being applied by the Commission under the terms of AEC Regulation 50.59." S. Rep. No. 1677, 87th Cong., 2nd Sess. 8 (1962); H.R. Rep. No. 1966, 87th Cong., 2nd Sess. 8 (1962). By so doing, the Congress endorsed the Commission's codification of the entire *Vallecitos* rule in 1962.

This reading of the 1962 amendment to Section 189(a) is consistent with the desire of the Congress and the Atomic Energy Commission at that time to reduce some of the licensing burdens and increasing work load arising from an accelerating number of license applications in a manner consistent with maintaining the public safety. The choice was made to rely on the expertise of the Commission to determine when license amendments raise no threat of potential harm to the public health and safety and could be authorized without a prior hearing. In *Union of Concerned Scientists* v. *Atomic Energy Commission*, 499 F.2d 1069, 1077 (D.C. Cir. 1974), the Court of Appeals recognized this fact, stating, "[o]f first importance in this respect is the primary purpose of the 1962 amendments, namely, to unburden the Commission by authorizing it to delegate decisional authority and removing the necessity of holding unnecessary and duplicative hearings." The Court of Appeals' current interpretation of Section 189(a) contravenes that purpose.

C. The Commission Has Consistently Interpreted The 1962 Amendment To Section 189(a) As Authorizing It To Approve License Amendments Which Involve No Significant Hazards Consideration Without Conducting A Prior Hearing.

Following the 1962 amendment to Section 189(a) the Commission consistently interpreted its authority to permit approval of operating license amendments without a prior hearing when it determined the amendments involved no significant hazards consideration. Immediately after the 1962 amendment was promulgated, the Commission reaffirmed its earlier codification of the *Vallecitos* rule. 27 Fed. Reg. 12184, 12186

(1962), codified at 10 C.F.R. § 50.58(b). The Court of Appeals has recognized that the Atomic Energy Act erected a "regulatory scheme which is virtually unique in the degree to which broad responsibility is reposed in the administrative agency, free of close prescription in its charter as to how it shall proceed in achieving the statutory objectives." *Siegel* v. *Atomic Energy Commission*, 400 F.2d 778, 783 (D.C. Cir. 1968). As the agency with responsibility for interpreting and implementing the Act, the Commission's contemporaneous and consistent interpretation of Section 189(a) is entitled to considerable deference. *Power Reactor Development Co.* v. *Electricians*, 367 U.S. 396, 408 (1961), *quoting Norwegian Nitrogen Products Co.* v. *United States*, 288 U.S. 294, 315 (1933); *Udall* v. *Tallman*, 380 U.S. 1, 16 (1965). That deference should not be abandoned due to the particular factual context in which a case arises. Consistent with the deference due the Commission's construction is the fact that neither the initial codification of the *Vallecitos* rule prior to the 1962 amendment of Section 189(a) nor its subsequent reaffirmation shortly after adoption of that amendment was ever challenged in court as beyond the authority conferred upon the Commission by the Act.

Since the *Vallecitos* rule was codified, the NRC and its predecessor, the AEC, have approved thousands of amendments, 1600 in the last four years alone, determined to involve no significant hazards consideration. Government Pet., at 15. Essentially, the Commission has said, and Congress affirmed in the 1962 amendments, that it is unnecessary and unproductive to divert staff resources from significant safety issues for a prior hearing on an amendment if the staff has found that the amendment involves no significant hazards consideration. The Commission's consistent interpretation of its authority reflects a judicious balancing of safety and practical considerations in administering the nuclear power licensing program.

CONCLUSION

For all of the foregoing reasons, the petitions for a writ of certiorari should be granted and the decision below should be summarily reversed.

Respectfully submitted,

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